

DEPARTMENT OF STATE REVENUE

Revenue Ruling #2000-02FIT

October 11, 2000

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUE

Financial Institutions Tax – Attribution of Receipts

Authority: IC 6-5.5-4-2, IC 6-5.5-1-10, IC 6-5.5-4 (Sections 3 through 13)

The taxpayer requests the Department to rule on the inclusion of "investment receipts other than from Indiana municipal investments" in the apportionment factor for Indiana financial institutions tax purposes.

STATEMENT OF FACTS

The taxpayer is a bank holding company domiciled in Indiana. The taxpayer's principal bank subsidiary (hereinafter "Bank") is also a resident taxpayer with operations in Indiana, Ohio, Kentucky and Illinois. The taxpayer and Bank file a combined Indiana Financial Institution Tax Return under the unitary concept. Bank is in the business of accepting deposits and investing those deposits in commercial loans, residential loans, consumer loans, Indiana municipal investments, non-Indiana municipal investments, U. S. Treasuries, Federal Agencies and corporate securities. Bank currently manages its municipals and other investments within Indiana.

The taxpayer submitted the following specific questions for Departmental review:

1. Are the "receipts from investments other than from Indiana municipal investments" included in the denominator of the apportionment factor?
2. Are the "receipts from investments other than from Indiana municipal investments" attributable to Indiana and included in the numerator of the apportionment factor by virtue of the fact that the taxpayer and Bank are commercially domiciled in Indiana and the investment management takes place in Indiana?

DISCUSSION

A definition of receipts is contained in IC 6-5.5-4-2 that provides in part:

Sec. 2. For purposes of computing receipts or the receipts factor under this article the following apply:

- (1) "Receipts" means gross income (as defined in IC 6-5.5-1-10), plus the gross income excluded under Section 103 of the Internal Revenue Code, less gross income derived from sources outside the United States. However, upon the disposition of assets such as securities and money market transactions, when derived from transactions and activities in the regular course of the taxpayer's trade or business, receipts are limited to the gain (as defined in Section 1001 of the Internal Revenue Code) that is recognized upon the disposition.

Pursuant to IC 6-5.5-1-10, "Gross income" means gross income (as defined in Section 61 of the Internal Revenue Code) for federal income tax purposes. The denominator for the receipts factor, therefore, is to include any gross income reported for federal income tax purposes.

The attribution rules of Sections 3 through 13 of Indiana Code 6-5.5-4 determine the composite receipts that are included in the numerator of the apportionment factor. Receipts from Indiana municipal investments are specifically attributable under IC 6-5.5-4-12, however, there is no attribution rule defining how "investment receipts other than from Indiana municipal investments" are to be included in the numerator of the apportionment factor.

RULING

1. The denominator of the apportionment factor is to include any gross income reported for federal income tax purposes under Section 61 of the Internal Revenue Code. "Receipts from investments other than from Indiana municipal investments" must be included in the denominator of the apportionment factor to the extent they have been included as gross income for federal income tax purposes. Any "receipts from investments other than from Indiana municipal investments" which are for the disposition of assets such as securities and money market transactions are limited to the gain that is recognized upon disposition in accordance with IC 6-5.5-4-2(1).
2. Receipts included in the numerator of the apportionment factor are limited to those specifically enumerated in IC 6-5.5-4-3 through IC 6-5.5-4-13. "Receipts from investments other than from Indiana municipal investments" are not specifically enumerated and, therefore, not included in the numerator of the apportionment factor irrespective of the fact that the taxpayer's commercial domicile is in Indiana or the

fact that the management of "investments other than Indiana municipal investments" takes place in Indiana.

CAVEAT

This ruling is issued to the taxpayer requesting it on the assumption that the taxpayer's facts and circumstances, as stated herein, are correct. If the facts and circumstances given are not correct, or if they change, then the taxpayer requesting this ruling may not rely on it. However, other taxpayers with substantially identical factual situations may rely on this ruling for informational purposes in preparing returns and making tax decisions. If a taxpayer relies on this ruling and the Department discovers, upon examination, that the fact situation of the taxpayer is different in any material respect from the facts and circumstances given in this ruling, then the ruling will not afford the taxpayer any protection. It should be noted that subsequent to the publication of this ruling, a change in statute, regulation, or case law could void the ruling. If this occurs, the ruling will not afford the taxpayer any protection.

DEPARTMENT OF STATE REVENUE